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EXAMINER

ASHBURN, STEVEN L

ART UNIT	PAPER NUMBER
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3714

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12

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/680,601

Applicant(s)

WEBB ET AL.

Examiner

Steven Ashburn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 46 is/are allowed.
- 6) ☐ Claim(s) 1-5, 7-45, 47 and 48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 October 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: *Affadavit dated Apr. 3, 2003*.

## ***DETAILED ACTION***

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, in Claim 9 the feature of repeating a bonus game segment if a player chooses a predetermined maximum number of allowed selector associated with high value awards must be shown or the feature canceled from the claims. No new matter should be entered.

In the amendment dated January 15, 2003 (paper no. 10), the applicant states that Claim 9 has been amended to overcome this objection. However, the amendment includes no changes to the claim. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

Claim 9 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not disclose repeating a bonus game segment if a player chooses a predetermined maximum number of allowed selector associated with high value awards.

Claim 30 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular the claims states,

“exchanging said currently held award with a lower value award if said input designating said player’s decision before step (a) unsuccessful, and said player inputs said decision to try for said higher value award exchange in step (b).”

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As interpreted by the examiner, the claim<sup>1</sup> requires the device to award a player a lower value award if inputting a decision into the device fails. For the purposes of examination, it is assumed that the device exchanges a currently held award with a lower value award if the outcome of the input designating said player's decision before step (a) unsuccessful.

### ***Double Patenting***

The terminal disclaimer filed on January 15, 2003 (paper no. 11) disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of Application No. 09/689/510 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Claim Rejections - 35 USC § 102***

Claims 1-5, 7, 9, 12, 14-17, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Yoseloff*, U.S. Patent 6,312,334 B1 (Nov. 6, 2001) in view of the television game show LET'S MAKE A DEAL®, Stefen Hatos-Monty Hall Productions (1963-1986), Ron Greenberg-Dick Clark Productions (1990-1991) (hereinafter "*LMAD*") as described in the Schwartz, et al., *The Encyclopedia of TV Game Shows*, 3<sup>rd</sup> Ed., Checkmark Books (1999) (hereinafter "*Encyclopedia*"), LET'S MAKE A DEAL®, <<http://meltingpot.-fortunecity.com/andorra/57/lmad.html>>, printed on Mar. 21, 2001 (hereinafter "*Fortune*") and Corbett Coburn, Examiners Affidavit, July 25, 2002 (paper no. 7) (hereinafter "*Coburn*")

*Yoseloff* discloses a gaming system that entices players to risk an initial award in return for the opportunity to receive greater payoff in a second game segment in which players chooses from several masked awards. The reference suggests basing the game's theme on popular game shows such as LET'S MAKE A DEAL®, THE PRICE IS RIGHT®, WHEEL OF FORTUNE®, JEOPARDY!®, HOLLYWOOD

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SQUARES<sup>®</sup>, or any game having the visual appearance of a game shows with a host, audience, participants, etc. *See col. 7:63-9:8*. In one embodiment, *Yoseloff* describes the LET'S MAKE A DEAL<sup>®</sup> game wherein players risk a prize in return for a masked prize behind one of three doors, as in the live television game show. *See fig. 6, 7; col. 7:18-33*. Furthermore, *Yoseloff* suggests maintaining "thematic continuity" between the gaming device and the television game show upon which it is based. *See col. 7:48-63*.

In regard to claims 1 and 14, *Yoseloff* teaches the following features:

- a. Providing an initial sequence that includes at least one player decision to risk a currently held award to try for and award exchange, said decision resulting in a successful outcome or an unsuccessful outcome for a player. *See fig. 1, 2; col. 3:19-4:20, 5:20-33*.
- b. Enabling a player to input a decision into a processor of a gaming device. *See fig. 1, 2; col. 5:34-6:44*.
- c. Ending the sequence if the player inputs a decision to keep the current award. *See id.*
- d. Determining if the decision produces a successful or unsuccessful outcome in the sequence. *See id.*
- e. Providing an award to the player if the decision produces a successful outcome. *See id.*
- f. Enabling the player to advance to a further sequence of the gaming device if the decision produces a successful outcome wherein the further sequence includes a different method of play than the initial sequence and wherein the further sequence compares the

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award to at least one other value to determine whether to provide the player a higher award than said award.. *See col. 6:1-44, 7:34-48.*

Thus, the claim is unpatentable because *Yoseloff* anticipates every feature.

In regard to claim 5, *Yoseloff* teaches the following features:

- a. Associating a high value award with either a first selector or a second selector, wherein the high value award is greater than the currently held player award. *See fig. 7; col. 7:28-35.*
- b. Associating a low value award with the selector not associated with the high value award, wherein the low value award is less than the player award. *See id.*
- c. Enabling the player to keep the player award, choose the first selector or choose the second selector. *See col. 5:34-59.*
- d. Providing the player award to the player if the player chooses to keep the player award. *See id.*
- e. Providing the low value award to the player if the player chooses the selector associated with the low value award. *See col. 7:28-35*
- f. Providing the high value award to the player if the player chooses the selector associated with the high value award. *See id.*
- g. If the player chooses the selector associated with the high value award, repeating the steps above at least one time using the provided higher value award and changing the newly associated high and low value awards to be greater than, respectively, the provided high value award. *See col. 6:32-34.*

Thus, the claim is unpatentable because *Yoseloff* anticipates every feature.

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In regards to claim 2, *Yoseloff* teaches selecting one of a plurality of initial sequence. *See col. 2:62-3:18, 6:32-35.*

In regards to claim 3, *Yoseloff* additionally teaches providing a consolation award to a player if the decision produces an unsuccessful outcome. *See col. 6:6-17.*

In regards to claim 4, *Yoseloff* additionally teaches consolation award includes the unsuccessful outcome wherein the award includes the unsuccessful outcome. *See id.*

In regards to claim 6, *Yoseloff* additionally teaches repeating the game segment if the player chooses a selector associated with the high value award. *See id.*

In regards to claim 7, *Yoseloff* additionally teaches repeating the game segment if the player chooses a selector associated with the high value award, whereby the high value award is used to determine the currently held award while repeating the segment. *See col. 6:32-34.*

In regards to claim 9, *Yoseloff* additionally teaches repeating the game segment if the player chooses a predetermined number of selections associated with high value awards. *See id. (Claim 9)*

In regards to claim 12, *Yoseloff* additionally teaches selecting one of a plurality of initial sequences to provide a player. *See 3:2-18, 6:25-27.*

In regards to claim 15, *Yoseloff* additionally teaches ending the sequence if an unsuccessful outcome occurs. *See col. 6:11-44.*

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In regards to claim 16, *Yoseloff* additionally teaches replacing the currently held award with a lower value award if an unsuccessful outcome occurs. *See col. 7:28-34.*

In regards to claim 17, *Yoseloff* additionally teaches replacing the currently held award with a lower value award and ending the sequence if an unsuccessful outcome occurs. *See 6:11-44, 7:28-34.*

In regards to claim 22, *Yoseloff* additionally teaches replacing the currently held award with a higher value award and if a successful outcome occurs. *See 6:11-44, 7:28-34.*

In regards to claim 23, *Yoseloff* additionally teaches repeating the game segment if the player chooses a selector associated with the successful outcome. *See 6:62-34.*

***Claim Rejections - 35 USC § 103***

**Claims 8, 10, 11, 12, 18-21, 26-32, 35-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Yoseloff*, in view the television game show *Let's Make a Deal*, Stefan Hatos-Monty Hall Productions (1963-1986); Ron Greenberg-Dick Clark Productions (1990-1991) (hereinafter "*LMD*") and Harlick, U.S. 5,941,773 (Aug. 24, 1999).**

*LMD* incorporates the features described in the following references relied on herein:

Schwartz, et al., *The Encyclopedia of TV Game Shows*, 3<sup>rd</sup> Ed., Checkmark Books (1999) (hereinafter "*Encyclopedia*")



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*Let's Make A Deal*, <<http://www.meltingpot.fortunecity.com/andorra/57/lmad.html>> printed on Mar. 21, 2001 (hereinafter "*Fortune*").

*Let's Make A Deal*, <<http://www.curtalliaume.com/lmad.html>> downloaded from the Internet Apr. 3, 2003 (hereinafter "*Curtalliaume*")

*Let's Make A Deal*, <<http://www.geocities.com/TelevisionCity/Set/7880/RULES/-LMaD.html>> printed on Mar. 21, 2001 (hereinafter "*Geocities*")

*The Official Let's Make A Deal Website*, <<http://www.letsmakeadeal.com/showinfo.htm>> printed on Mar. 16, 2001 (hereinafter "*LMAD*")

Afra Zomordian, *The Monty Hall Problem*, Jan 20, 1998 (hereinafter "*Zomo*").

Examiner's Affidavit by Corbett B. Coburn III, July 25, 2002 (hereinafter "*Affidavit A*").

Examiner's Affidavit by Corbett B. Coburn III, Apr. 3, 2003 (hereinafter "*Affidavit B*").

In regards to claims 26, 35, 47 and 48, *Yoseloff* teaches a gaming device based on the television game show LET'S MAKE A DEAL® in which a player may optionally risk a current award for the chance to win a larger award in a subsequent round. If and after a player inputs a decision to try for the higher value award, it is randomly determined by player selection from masked choices, whether the player's inputted decision yields a higher value award which is the successful outcome. *See col. 7:19-34*. However, *Yoseloff* does not describe a tease sequence having the following claimed features:

- a. If the player inputs a decision to try for the higher value award, randomly determining whether to perform a player tease sequence based on a probability.
- b. After accepting an input designating a player's decision to risk a currently held award, increasing the currently held award incrementally by an increment determined from a predetermined range.

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c. Without revealing a determination of a player's success, enabling the player to input a decision to (i) keep the increased award or (ii) risk losing the increased award to try for the higher value award exchange.

d. Ending the tease sequence if the player inputs a decision to keep the increased award.

Regardless, of the deficiencies, these features would have been obvious to an artisan in view of the television game show *LMD*, upon which an embodiment of *Yoseloff* is based..

*LMD* aired on various broadcast networks between 1963 and 1991. *See Fortune*, p. 1. The game's emcee would award small prizes and cash to players ~~without~~ and would offer them the option of keeping the original award or trading it for an unknown award. *See Fortune*, p. 2. The unknown award was hidden from view, ~~usually masked~~, for example, behind one of three curtains. *See id.* Usually, the unknown award was something better than the initial award such as more ~~cash~~<sup>cash</sup>, a vacation, etc. *See id.* However, sometimes the unknown award could be a prize of little or no value. *See id.* Contestants who lost were eliminated from the game. *See id.* Contestants who won the highest awards were offered the option to advance to a further game sequence in which they could trade their current award for a chance at a large award known as the "Big Deal of the Day". By taking the option, ~~the player~~<sup>the player</sup>, would be able to select one of three curtains and receive either a high-value award worth more than their current award or a low-value award worth much less than their current award. *See id.* In some instances, the winner of the 'Big Deal' was offered a last chance to risk all his winnings in the 'Super Deal', wherein he selected one of three doors each hiding a cash value. *See id.* A distinguishing feature of *LMD* was that the emcee would "tease" players by offering them awards to change their decisions or by revealing information that appeared increase their odds of winning. *See Fortune*, p. 8; *Affadavits A, B*; *LMAD*, p. 1; *Zomo*, p. 1. As a result, the decision-making was exciting and suspenseful. *See LMAD*, p. 1.

Part of the time, the *LMD* ~~game~~<sup>game</sup> would offer players the opportunity to play one of several special games having different methods of play. *See LMAD*, p. 1. In one, players would participate in pricing

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games. *See id.* In another, called 'The Dealer', a player would select cards. *See Fortune*, p. 3. If the player chose a winning card, then the player moved on to a succeeding round of play. *See id.* If the player chose a losing card, then the player was eliminated from the game. *See id.*

In specific regards to the claims *LMD* discloses that the show emcee would gradually add more and more prizes to a sure thing, as well as reveal the contents of masked selections. *See Geocities*, p. 2. For example, the emcee would gradually add incremental amounts of cash to the player's current award to entice them to change their decision. The increments offered would sometimes change. For example, if a player chose to trade his prize for hidden award, the emcee would hand the player cash in increments of \$100 to change their decision. The emcee rarely, if ever, gave the player more than \$1000. As a result, the feature enhanced the entertainment of the game because it extended its length and heightened the excitement and suspense of the decision-making decision process. *See LMAD*, p. 1.

Hence, *LMD* teaches a game in which, after accepting a player's decision to risk a currently held award, incrementally increasing the currently held award, without revealing a determination of a player's success, enabling the player to input a decision to (i) keep the increased award or (ii) risk losing the increased award to try for the higher value award exchange and ending the tease sequence if the player inputs a decision to keep the increased award.

Thus, in view of *LMD*, it would have been obvious to an artisan at the time of the invention to modify the gaming device described by *Yoseloff*, wherein the device based on *LMD* accepts a player's input designating a decision to risk a currently held award, to add the features of, after accepting an input designating a player's decision to risk a currently held award, incrementally increasing the currently held award, without revealing a determination of a player's success, enabling the player to input a decision to (i) keep the increased award or (ii) risk losing the increased award to try for the higher value award exchange and ending the tease sequence if the player inputs a decision to keep the increased award.

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The gaming device suggested by the combination of *Yoseloff* with *LMD* describes all the features of the claim except randomly determining whether to increase the currently held award based on a probability and randomly determine an increment from at least one predetermined range. Regardless of the deficiency, these features would have been obvious to an artisan.

In *LMD*, after a player made a decision to keep a current award, the emcee would frequently offer the player cash to change his decision wherein the emcee would offer some base amount of cash and incrementally increase the offer over an unpredictable range. See *LMAD*, p. 1, *Affidavit B*, *Geocities*, p. 2. Hence *LMD* suggests a gambling game wherein a player makes a decision to risk a currently held award by offering a teaser sequence on an unpredictable basis using unpredictable values in order to enhance the suspense and excitement of the decision-making by preventing players from predicting when or how much cash they would be offered.

It was notoriously well known in the art at the time of the invention to select values randomly in order to create the unpredictability fundamental to the entertainment provided by gaming devices. Furthermore, it was notoriously well known in the art at the time of the invention to select random outcome or event based on a range or probability distribution to limit the possible number of outcomes. For example, *Hendrick*, describes a gaming device wherein, in response to a players input, a randomly occurring event may be generated to award a player a random prize from a pool of possible values or range of possible values. See *col. 1:35-2:21*. Hence, it is within the ordinary knowledge of an artisan to employ a random selection from a predetermined range or probability to generate unpredictable outcomes or events.

Thus, it would have been obvious to an artisan at the time of the invention to modify the gaming device suggested by the combination of *Yoseloff* with *LMD*, wherein the player is sometimes "teased" by increasing the currently held award by an unpredictable increment over a unpredictable range, to add the feature of randomly determining the event, increment or range from at least one predetermined range or

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probability. As suggested by *LMD*, offering a teaser sequence on an unpredictable basis using unpredictable values in order to enhance the tension of the game by preventing players from predicting when or how much cash they would be offered before the offer was terminated. Moreover, in accordance with the teachings of *Yoseloff*, doing so would allow the gaming device to retain thematic continuity with the game show by incorporating the popular feature of offering increments of cash to entice players to change their decision.

Consequently, for all the reasons given above, the claim would be obvious to an artisan at the time of the invention in view of the prior art taken as a whole.

In regards to claims 8, *LMD* additionally teaches repeating the steps of the sequence if the player chooses a selector associated with the high value award unless the player chooses the highest award value in a sequence. *See Fortune*, p. 2. More specifically, players could advance from an initial game, to the "Big Deal" to the "Super Deal" in which the game was ended if the player chose the highest award value.

In regards to claims 10, *LMD* additionally suggests revealing the award associated with a first selector and the award associated with the award associated with the second selector if the player chooses a selector associated with a low value award. *See Fortune*, p. 8; *Affidavit A, Zomo*, p. 1; *Curtalliaume*, p. 2.

In regards to claims 11, *LMD* additionally suggests revealing the award associated with the first selector and the award associated with the second selector if the player keeps the player award. *See id.*

In regards to claims 12, 18 and 19, *LMD* additionally suggests revealing the high value award and the low value award if the player keeps the award. *See id.*

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In regards to claims 20, *LMD* additionally suggests performing a tease sequence if the player inputs a decision to player for the higher value award. *See id.*

In regards to claims 21, *LMD* additionally suggests performing a tease sequence if the unsuccessful outcome occurs. *See id.*

In regards to claims 27, *Yoseloff* additionally teaches repeating the sequence of bonus segments and each increasing the award each time. *See col. 6:1-43.* Alternatively, *LMD* teaches the same feature. *See Fortune, p. 2.*

In regards to claims 28, *Yoseloff* additionally teaches repeating the sequence of bonus segments a random number of times and each increasing the award each time. *See Fortune, p. 8; Affidavit A, Zomo, p. 1; Curtalliaume, p. 2.* Notably, the number of segments is randomly determined by the player's random chance of selecting a successful outcome which allows the bonus sequence to continue. Alternatively, *LMD* suggests the same feature because, based on a random decision, the player may advance to a subsequent round. *See id.* Furthermore, only sometimes does the emcee invite players to participate in the "Big Deal". *See id.* In combination with *Yoseloff*, this suggests randomly allowing players to advance to a subsequent round.

In regards to claims 29, *Yoseloff* additionally teaches exchanging the currently held award with the higher award if the input to try for the higher award is successful. *See col. 7:19-34.* Alternatively, Alternatively, *LMD* teaches the same feature. *See id.*

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In regards to claims 30, *Yoseloff* additionally teaches exchanging the currently held award with the higher award if the input to try for a lower value award if the outcome from the input designating the player's decision is unsuccessful. *See col. 7:19-34*. Alternatively, *LMD* teaches the same feature. *See Geocities, p. 1*.

In regards to claim 31, *LMD* additionally teaches revealing the higher value award and the lower value award. *See Fortune, p. 8; Affidavit A, Zomo, p. 1; Curtalliaume, p. 2*.

In regards to claim 32, *LMD* additionally teaches revealing the higher value award and the lower value award if the player inputs the decision to keep the increased award. *See id*.

In regards to claims 36, *Yoseloff* additionally teaches ending the sequence if the unsuccessful outcome occurs. *See col. 6:1-44*. Alternatively, *LMD* teaches the same feature. *See Geocities, p. 1*.

In regards to claims 37, *Yoseloff* additionally teaches replacing the currently held award with the higher value award if the successful outcome occurs. *See col. 7:19-34*. Alternatively, *LMD* teaches the same feature. *See id*.

In regards to claim 38, *Yoseloff* additionally teaches repeating the sequence if the successful outcome occurs. *See col. 6:1-44*.

In regards to claim 39, *Yoseloff* additionally teaches using the successful outcome to determine the currently held award while repeating the steps. *See col. 6:1-44, 7:19-34*.

In regards to claims 40 and 41, the gaming device suggested by the combination of *Yoseloff* with *LMD* describes all the features of the claims except automatically performing the tease sequence. Regardless, it is implicit in the automated gaming device described by the combination of *Yoseloff* with *LMD*, wherein a processor causes the performance of a tease sequence, that the processor causes the tease sequence to be performed automatically.

In regards to claims 42, *LMD* additionally describes providing a tease sequence sometimes. Thus, the gaming device suggested by the combination of *Yoseloff* with *LMD* describes all the features of the claims except randomly determining whether to perform the tease sequence. Regardless,

It was notoriously well known in the art at the time of the invention to select values randomly in order to create the unpredictability fundamental to the entertainment provided by gaming devices. Furthermore, it was notoriously well known in the art at the time of the invention to select random outcome or event based on a range or probability distribution to limit the possible number of outcomes. For example, *Hendrick*, describes a gaming device wherein, in response to a players input, a randomly occurring event may be generated to award a player a random prize from a pool of possible values or range of possible values. *See col. 1:35-2:21*. Hence, it is within the ordinary knowledge of an artisan to employ a random selection from a predetermined range or probability to generate unpredictable outcomes or events.

Thus, it would have been obvious to an artisan at the time of the invention to modify the gaming device suggested by the combination of *Yoseloff* with *LMD* wherein, a teaser sequence is offered sometimes after a player inputs a decision to try for a higher value award, to add the feature randomly determining whether to perform the tease sequence. As suggested by *LMD*, offering a teaser sequence on an unpredictable basis using unpredictable values in order to enhance the tension of the game by



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preventing players from predicting when or how much cash they would be offered before the offer was terminated. Moreover, in accordance with the teachings of *Yoseloff*, doing so would allow the gaming device to retain thematic continuity with the game show by incorporating the popular feature of offering increments of cash to entice players to change their decision.

In regards to claim 43, *LMD* additionally suggests performing a tease sequence if the unsuccessful outcome occurs. *See id.* Thus, the gaming device suggested by the combination of *Yoseloff* with *LMD* describes all the features of the claims except atomically performing the tease sequence. Regardless, it is implicit in the automated gaming device described by the combination of *Yoseloff* with *LMD*, wherein a processor causes the performance of a tease sequence, that the processor causes the tease sequence to be performed automatically.

In regards to claim 44, *LMD* additionally suggests performing a plurality of player tease sequences. *See Fortune, p. 8; Affidavit A, Zomo, p. 1; Curtalliaume, p. 2.* More specifically, *LMD* describes several rounds in which a player inputs a decision. *See id.* It is implicit a tease sequence could occur with each round.

In regards to claim 45, *LMD* additionally suggests enabling the player to change a selection made in inputting the decision to try for a higher value award. *See id.*

**Claims 9, 13, 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Yoseloff*, in view of *Vancura*, U.S. Patent 6,398,218 (Jun. 4, 2002).**

In regards to claims 9, the gaming system taught by *Yoseloff* describes all the features of the instant claims except ending the bonus sequence if the player chooses a predetermined number of

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selectoions associated with a highest award value in a sequence. Regardless of the deficiency, this feature would have been obvious to an artisan in view of *Vancura*.

*Vancura* discloses an analogous gaming system providing extended bonus games. The reference describes various methods for controlling a bonus game's length and player involvement. *See col. 2:64-67*. In one variation, the bonus sequence ends when a player's winnings equals or exceeds a predetermined value in order to protect operators against paying unexpectedly large awards. *See col. 4:12-16*. In another variation, when a player competes a predetermined number of bonus attempts is paid a jackpot to terminate the bonus round. *See col. 4:27-35*. Thus, *Vancura* suggests terminating a bonus sequence upon award of a large payout to control the length and expected value of a bonus game. In view of *Vancura*, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the multi-segment bonus game taught by *Yoseloff*, wherein a player continues to make selections until choosing a non-winning selection, to add the feature of ending the bonus sequence if the player chooses a selector associated with a highest award value in a sequence. As suggested by *Vancura*, the modification would protect operators by controlling a bonus game's length and payout while maintaining player involvement.

In regards to claim 13, the gaming system taught by *Yoseloff* describes all the features of the instant claims except offering selections with at least two selections with high values and two selections with low values. Regardless of the deficiencies, these features were known in the art at the time of the invention and would have been obvious to an artisan in view of *Vancura*.

*Vancura* discloses a bonus game with three selections. *See fig. 1; col. 12:47-54*. Alternatively, the reference suggests that any number of outcome selections could be used. *See id.* As is notoriously known in the art, modifying the number of possible outcomes modifies the odds of the game. Thus, in view of *Vancura*, it would have been obvious to one of ordinary skill in the art at the time of the invention

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to modify *Yoseloff*, wherein game outcomes include a high and low selection outcomes, to add the feature of offering selections with at least two selections with high values and two selections with low values to modify the odds of selecting a successful outcome and thereby control the games expected payout. Furthermore, it would be obvious to an artisan to increase the number of selections without modifying the odds merely to change to appearance of the game.

In regards to claim 33, *Vancura* additionally teaches continuing a sequence until a player inputs a decision to keep the currently held award. *See fig. 2.*

In regards to claim 34, *Vancura* additionally teaches continuing a sequence until until the unsuccessful outcome occurs.. *See fig. 2.*

#### ***Allowable Subject Matter***

Claim 46 is allowed. The following is a statement of reasons for the indication of allowable subject matter: The prior art does not teach or suggest a gaming device in which a player is enabled to input into a processor a decision to keep a currently held award or a decision to risk losing the currently held award t try for one of a plurality of other awards wherein, if and after the player inputs the decision to try for on of the other awards, the device performs a tease sequence that the value of the currently held award is increase to a value less than the average value of the other awards but greater than the currently held value if an unsuccessful outcome occurs.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new grounds of rejection. However, response to certain arguments are given below.

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In regards to claim 1, the applicant argues that *Yoseloff* does not teach the claimed feature of comparing an award provided in an initial sequence to another. The examiner respectfully disagrees. *Yoseloff* discloses that award points accumulated in an initial sequence may be compared to another value to receive, for example, a jackpot. *See col. 7:34-48*. Consequently, the rejection is maintained.

In regards to claim 2, the applicant argues that *Yoseloff* does not teach a particular method for selecting from a plurality of initial sequences. It is noted that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. *See In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Consequently, the rejection is maintained.

In regards to claims 3 and 4, the applicant argues that *Yoseloff* does not teach a consolation prize if the player's decision produces an unsuccessful outcome. The examiner respectfully disagrees. *Yoseloff* describes two possible unsuccessful outcomes and one successful outcome. *See col. 7:19-34*. A player may receive unsuccessful pays a small portion of the initial award. *See col. 7:31-32*. This constitutes a consolation prize when the player's decision produces an unsuccessful outcome. Notably, the concept of a consolation prize is notoriously well known in the art and it would be clearly within the knowledge of an artisan to provide a consolation prize to a player to soften the disappointment of receiving an unsuccessful outcome. Consequently, the rejection is maintained.

In regards to claim 14, the applicant argues that *Yoseloff* does not teach continuing the game sequence when a successful outcome occurs. The examiner respectfully disagrees. *Yoseloff* describes a gaming device having at least first and second game segments. *See col. 2:62-3:18*. Furthermore, an

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award may allow a player to advance to a second or further segment of player. *See col. 6:12-36.*

Consequently, the rejection is maintained.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Ashburn whose telephone number is 703 305 3543. The examiner can normally be reached on Monday thru Friday, 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872 9302 for regular communications and 703 872 9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1078.

S.A.  
April 4, 2003

A handwritten signature in black ink, appearing to read 'MS', with a long horizontal flourish extending to the right.

MARK SAGER  
PRIMARY EXAMINER

## Examiner's Affidavit

Come now the undersigned and makes this his Examiner's Affidavit and states as follows:

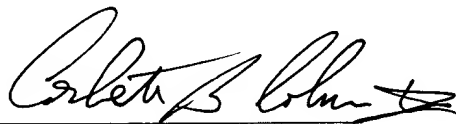
I am over eighteen years of age and am competent in all respects to enter the testimony contained herein. I make this affidavit freely and I have personal knowledge of all facts averred herein.

I watched "Let's Make A Deal" prior to the year 1999. During the game show, the host would sometimes offer the player cash in exchange for not playing a bonus game. For instance, a player might win a game entitling the player to choose between three doors. The host would often offer to give the player cash if the player agreed to forgo the bonus game and not choose between the three doors. The host would frequently do this by offering a base amount and then incrementing that value until either a maximum value was reached or the player accepted the offer. The maximum value varied in order to keep the player from knowing what the maximum value would be.

There were also times when the host would offer the player money to change the choice already made by the player. The same procedure of starting with a base figure and incrementing it to some maximum value was used.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

This 3rd day of April, 2003



Corbett B. Coburn III  
Patent Examiner